



## MEMORANDUM

<b>DATE</b>	April 28, 2023
<b>TO</b>	Interested Parties
<b>FROM</b>	Bureau for Private Postsecondary Education
<b>SUBJECT</b>	<b>Guidance for Public Institutions Operated by Another State that Maintain a Physical Presence in California</b>

Senate Bill 1433 (Roth, Chapter 544, Statutes of 2022) amended the Private Postsecondary Education Act (Act) to permit a public institution to apply for an approval to operate from the Bureau for Private Postsecondary Education (Bureau) if that institution: (1) qualifies as a public institution of higher education pursuant to California Education Code (CEC) section 94858.5; (2) is operated by another state; and (3) maintains a physical presence in California. See CEC section 94949.8.

This document provides guidance regarding the application of the Act to public institutions. Pursuant to CEC section 94949.8(c), the development and publication of such guidance is exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Questions about this memo may be sent to [bppe.policy@dca.ca.gov](mailto:bppe.policy@dca.ca.gov).

### **Definition of Applicable Institutions**

Eligibility to apply for approval is limited to public institutions operated by another state. CEC section 94858.5(b) specifies that states include only those “as defined in Section 3306(j)(1) of Title 26 of the United States Code.” Public institutions operated by any state meeting this definition, other than the state of California, are eligible to apply for approval to operate.

### **Application Signatories**

Regulations specify which institutional representatives must sign applications for approval to operate and for any subsequent substantive changes, and required signatories differ by institution type. For nonprofit corporations, regulations require that applications be signed by “each member of the governing body,” or, since the nonprofit institution is also incorporated, the chief executive officer of the corporation. Similarly, public institutions seeking approval to operate shall submit applications signed by each member of the public institution’s governing body (e.g., board of trustees or regents) or the chief executive officer.

### **Applicability of Laws and Regulations**

All California laws and regulations that apply to institutions approved by the Bureau shall apply to the facilities located in California and the students enrolled in educational

programs offered at that facility, except that a public institution approved by the Bureau shall not state that it is a private institution (as is otherwise required pursuant to CEC section 94909(a)(2)).

Specifically, for public institutions of higher education operated by other states and approved by the Bureau:

- reporting of Student Performance Data under CEC section 94929.5 shall only be for students attending the public institution's facility located in California;
- all information reported in the public institution's Annual Report required by CEC section 94834 shall only be for educational programs offered at the facility in California and the students enrolled at or who have graduated from that facility;
- institutions must collect Student Tuition Recovery Fund (STRF) assessments for students enrolled in California residency programs, and eligibility for reimbursement through the STRF is only available to students attending the institution's facility located in California; and,
- the requirement to report a substantive change under CEC section 94893 shall only apply to substantive changes made at or directly affecting the public institution's facility in California.

Public institutions not required by the U.S. Department of Education to have financial responsibility composite scores calculated are considered to have met the requirements of Title 5, California Code of Regulations section 71745.

### **Enforcement Authority**

The Act mandates that the Bureau protect students and consumers through the oversight of private postsecondary educational institutions operating in California. This mandate includes the authority to conduct investigations, require the production of documents, and take enforcement action as necessary. Compliance monitoring includes, but is not limited to, at least two inspections every five years and Bureau investigations into allegations of noncompliance on an as-needed basis.

The Bureau's enforcement authority over a public institution of higher education operated by another state and approved by the Bureau shall extend only over the activities related to the California location, the programs offered at those facilities, and the students attending educational programs at those locations. The Bureau may take appropriate action based upon violations found, which may include citation, probation, or revocation of an institution's approval to operate.